

SUMMARY OF WORKPLACE RULES FOR NEW HHS EMPLOYEES

CAUTION: Many executive branch employees enter the federal workforce with prior experience gained in academia, advocacy groups, businesses, charitable organizations, and government institutions in other branches and levels. These employees may be accustomed to rules and practices that govern workplace conduct and employment perquisites and privileges that differ markedly from the requirements in a federal executive department. Accordingly, this summary warns that the use of government time, property, equipment, funds, and personnel for other than authorized purposes is a violation of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, Subpart G (Misuse of Position), and provides examples of misuse that may subject HHS employees to disciplinary action. This list is not intended to be exhaustive, rather its purpose is to highlight several “traps for the unwary.”

Use of Subordinates for Personal or Political Activities. An employee cannot encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized by law or regulation. 5 C.F.R. § 2635.705(b). For example, a supervisor cannot ask his secretary to run personal errands or type his personal correspondence during duty hours. Further, directing or coercing a subordinate to perform such activities during non-duty hours constitutes an improper use of public office for private gain in violation of 5 C.F.R. § 2635.702(a). Supervisors also have been disciplined for soliciting and accepting loans from subordinates. *Vargas v. U.S.P.S.*, 83 M.S.P.R. 695 (1999). The Hatch Act prohibits supervisors from asking subordinates to volunteer their services for any political purpose, even when the services will be performed off-duty and even where both the supervisor and the subordinate are political appointees. 5 C.F.R. § 734.302(a)(3).

Use of Official Time. An employee shall use official time in an honest effort to perform official duties and shall account for time expended on personal or other non-duty activities by obtaining approval for leave or other excused absence. 5 C.F.R. § 2635.705(a). Conducting personal business while on duty, *Cohen v. Department of Treasury*, 7 M.S.P.R. 57 (1981); “wasting time,” *Pitts v. Department of Navy*, 7 M.S.P.R. 208 (1981); and even “reading the newspaper on the job,” *Cook v. Department of Navy*, 34 M.S.P.R. 26 (1987), have been the subject of adverse personnel actions. The Hatch Act bars using official duty time for any partisan political purpose whatsoever. 5 C.F.R. § 734.306(a)(1). Gambling while on duty or at work and engaging in conduct prejudicial to the Government are also prohibited. 5 C.F.R. §§ 735.201 and 735.203.

Use of Government Property and Funds. An employee cannot use Government property or expend appropriated funds for other than authorized purposes. 5 C.F.R. § 2635.704(a). Disciplinary action may be initiated for unauthorized or improper use of: **“government franked” envelopes or official mail**, *Lauren v. Veterans Administration*, 4 M.S.P.R. 66 (1980); **government credit cards** for personal purchases, *Baracker v. Department of Interior*, 70 M.S.P.R. 594 (1996); **agency vehicles or government rental cars** for personal trips, detours, or transportation of family members or friends, *Campbell v. Department of Health and Human Services*, 40 M.S.P.R. 525 (1989); and **agency phone systems for long distance personal calls**, *Lewis v. General Services Administration*, 82 M.S.P.R. 259 (1999). **NOTE:** Recent statutory changes now permit **frequent flyer miles** derived from official travel to be accumulated in individual accounts and used for personal trips.

Personal use of **government computers, word processors, printers, telephones, cellular phones, copiers, fax machines, and internet access** generally has been prohibited, subject to agency-specific policies, if any, regarding minimal, infrequent usage for non-governmental purposes. For example, the Department now permits personal use of information technology when such use involves minimal additional expense to the Government, is performed on the employee’s non-work time, does not interfere with the HHS mission or operations, and does not violate the Standards of Ethical Conduct, the Hatch Act, or other applicable law. HHS-IRM-2000-0003: HHS IRM Policy for Personal Use of Information Technology Resources (1/8/01). Employees should consult a supervisor in their operating divisions for guidance on non-governmental use of computers and other technology resources. Excessive personal use of a government computer and printer remains a disciplinary matter, *Rush v. Department of Air Force*, 69 M.S.P.R. 416 (1996), as well as misuse of **agency e-mail** to send notes inappropriate to the workplace, *Bishop v. Department of Air Force*, 75 M.S.P.R. 33 (1997).